

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SHIRLEY MARIE HAMPTON,

Plaintiff,

Case No. 2:20-cv-456-KJD-NJK

ORDER

v.

DEPARTMENT OF HEALTH AND HUMAN
SERVICES, *et al.*,

Defendants.

Presently before the Court is Defendants' Motion to Dismiss Plaintiff's Complaint (#14). Plaintiff filed a response in opposition (#20) to which Defendants replied (#27). Also, before the Court is Plaintiff's Motion for Extension of Time to Make Proper Service (#30) and Motion to Amend Complaint (#31). Defendants filed responses in opposition (#35/36) to which Plaintiff replied (#37/38).

Plaintiff filed a new Motion for Leave to File Amended Complaint (#39). Defendants filed a response in opposition (#43) to which Plaintiff replied (#47). Plaintiff then filed a Corrected Motion for Leave to File an Amended Complaint (#50) and has since filed both a Motion for Summary Judgment (#55) and what the Court believes is a fourth Motion for Leave to File an Amended Complaint (#57).

Analysis

Plaintiff is proceeding *pro se*. Accordingly, the Court must liberally construe her pleadings, which it does. However, Plaintiff must learn and abide by the rules of the Court¹ and the rules governing litigation in this case the Federal Rules of Civil Procedure. See, e.g., Ghazali

¹ The Local Rules are available at <https://www.nvd.uscourts.gov/wp-content/uploads/2020/04/Local-Rules-of-Practice-Amended-2020.pdf>.

v. Moran, 46 F.3d 52, 54 (9th Cir. 1995). Here, Plaintiff has run afoul of Local Rule 15-1 which requires a proposed amended complaint to be attached as an exhibit to the motion for leave to amend. Incorporating the amended complaint into the motion is not sufficient to satisfy LR 15-1. Further, Plaintiff should strictly follow the pleading requirements in Federal Rule of Civil Procedure (“Rule”) 8 and LR 15-1. The amended complaint should only contain the claims she wishes to pursue and should not describe other claims that she is dropping. Further, it should contain factual allegations, brief statements of the fact that if true would state a claim. While brief references to the “title” of her claims or their statutory basis may be advisable, it is not necessary for Plaintiff to include the entire statute upon which she bases her claims, because it is only necessary to allege facts. Due to Plaintiff’s failure to follow LR 15-1, her motions to amend are denied. Further, Plaintiff’s motion for summary judgment is denied as moot.

12 However, out of an abundance of caution due to Plaintiff's *pro se* status, Plaintiff will be
13 granted leave to file an amended complaint. The amended complaint must be filed within
14 fourteen (14) days of the entry of this order. Failure to timely file an amended complaint will
15 result in the Court dismissing this action without prejudice. Underneath the case number, the
16 amended complaint must be clearly titled "FIRST AMENDED COMPLAINT". Having read and
17 considered Plaintiff's Motion to Extend Time to Serve Complaint, and good cause being found,
18 it is granted. Upon filing of a first amended complaint, Plaintiff must serve the complaint in
19 accordance with Rule 4. After Plaintiff files the amended complaint, the Clerk of the Court shall
20 issue summons to Defendants, and deliver the same to the U.S. Marshal for service. The Clerk of
21 the Court shall also deliver a copy of the amended complaint to the U.S. Marshal for service.

Plaintiff shall have twenty days in which to furnish the U.S. Marshal with the required Form USM-285.² Within twenty days after receiving from the U.S. Marshal a copy of the Form USM-285, showing whether service has been accomplished, Plaintiff must file a notice with the court identifying whether defendant was served. If Plaintiff wishes to have service again attempted on an unserved defendant, a motion must be filed with the Court identifying the unserved defendant and specifying a more detailed name and/or address for said defendant, or

² The USM-285 form is available at www.usmarshals.gov/process/usm285.pdf.

1 whether some other manner of service should be attempted.

2 Conclusion

3 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motions to Amend
4 (#31/39/50/57) are **DENIED**;

5 IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (#55) is
6 **DENIED as moot**;

7 IT IS FURTHER ORDERED that Plaintiff's Motion for Extension of Time to Make
8 Proper Service (#30) is **GRANTED**;

9 IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (#14) and Motion to
10 Strike (#44) are **DENIED as moot**;

11 IT IS FINALLY ORDERED that Plaintiff file a first amended complaint within fourteen
12 days of the entry of this order, failure to do so will result in this action being dismissed without
13 prejudice.

14 DATED this 29th day of December, 2020

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18 Kent J. Dawson
United States District Judge

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